

Filed: May 11, 2007

Mail Stop Interference
P.O. Box 1450
Alexandria, VA 22313-1450
Tel: 571-272-4683
Fax: 571-273-0042

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

RUTH A. **GJERSET**, and ROBERT E. SOBOL
Junior Party
(Application 08/335,461),

v.

JACK A. **ROTH**, TOSHIYOSHI FUJIWARA,
ELIZABETH A. GRIMM, TAPAS MUKHOPADHYAY,
WEI-WEI ZHANG, and LAURIE B. OWEN-SCHAUB
Senior Party
(Patent 5,747,469).

Patent Interference No. 105,377 (MPT)

Before: ADRIENE LEPIANE HANLON, SALLY GARDNER LANE, and
MICHAEL P. TIERNEY, *Administrative Patent Judges*.

TIERNEY, *Administrative Patent Judge*.

JUDGMENT - ADVERSE - Bd. R. 127(b)

- 1 Junior Party Gjerset has filed a request for adverse judgment. (Paper
2 95). Accordingly, judgment on priority is entered against Gjerset as to
3 Count 2, the sole count in interference. (Paper 73).

1 All pending motions are dismissed as moot in light of Gjerset's
2 request for adverse judgment. In particular, Gjerset and Roth's motions for
3 judgment on priority (Papers 88 and 91), Gjerset's motion for priority
4 benefit of an earlier application (Paper 87) and Roth's motion attacking
5 Gjerset's patentability based on prior art (Paper 41) are dismissed as moot.

6
7 It is:

8 **Ordered** that judgment on priority as to Count 2, the sole count in
9 interference (Redeclaration, Paper 73, p. 2), is awarded against Gjerset.

10 **Further Ordered** that Gjerset is not entitled to a patent containing
11 claims 1, 2, 4-20, and 23 of its involved U.S. Application 08/335,461, all of
12 which correspond to Count 2.

13 **Further Ordered** that a copy of this paper shall be made of record in
14 the files of Gjerset, U.S. Application 08/335,461 and Roth, U.S. Patent
15 5,747,469.

16 **Further Ordered** that the parties' attention is directed to 35 U.S.C.
17 § 135(c) and Bd. R. 205.

/ss/ Adriene Lepiane Hanlon)
ADRIENE LEPIANE HANLON)
Administrative Patent Judge)

/ss/ Sally Gardner Lane) BOARD OF PATENT
SALLY GARDNER LANE) APPEALS AND
Administrative Patent Judge) INTERFERENCES

/ss/ Michael P. Tierney)
MICHAEL P. TIERNEY)
Administrative Patent Judge)

cc (electronic filing):

Counsel for GJERSET:

Michael J. Wise, Esq.
PERKINS COIE LLP
1620 26th Street
6th Floor, South Tower
Santa Monica, CA 90404-4013
Email: mwise@perkinscoie.com
Email: kohriner@perkinscoie.com

Counsel for ROTH:

Steven L. Highlander, Esq.
FULBRIGHT & JAWORSKI LLP
600 Congress Avenue
2400 One American Center
Austin, TX 78701
Email: shighlander@fulbright.com
Email: gshishima@fulbright.com

Desperтт, Sonja

From: Desperтт, Sonja on behalf of Interference Trial Section
Sent: Friday, May 11, 2007 2:47 PM
To: 'mwise@perkinscoie.com'; 'khriner@perkinscoie.com'; 'shighlander@fulbright.com'; 'gshishima@fulbright.com'
Subject: Interference 105377 (MPT) Paper No. 98 - Judgment-Adverse-Bd.R. 127(b)
Attachments: 105377.098.pdf

5/17/07